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C O N F I D E N T I A L STATE 142325

FOLLOWING REPEAT CAPE TOWN 969 ACTION SECSTATE INFO BONN DAR ES
SALAAM GABORONE LAGOS LONDON LUSAKA MAPUTO OTTAWA PARIS PRETORIA
USUN NEW YORK JUN 11.
QUOTE C O N F I D E N T I A L CAPE TOWN 0969

E.O. 11652: GDS
TAGS: PDEV, SF, WA, US, UN
SUBJECT: BRIEFING ON NAMIBIAN TALKS

CONTACT GROUP MET THIS MORNING (JUNE 11). WE PREPARED
AN ASSESSMENT OF THE TALKS (SEPTTEL) AND AGREED THAT THE
FOLLOWING SHOULD BE USED IN THE BRIEFING OF THE UN SECRETARY-
GENERAL, THE FRONT LINE STATES, SWAPO, AND OTHER INTERESTED
PARTIES:

QUOTE

1. INTRODUCTION: AT THE OUTSET OF THE SECOND ROUND, THE
CONTACT GROUP REITERATED THAT SECURITY COUNCIL RESOLUTION 385
PROVIDED THE MOST ACCEPTABLE BASIS FOR A SETTLEMENT OF THE
NAMIBIA QUESTION AND ITS OBJECT OF SEEKING A SOLUTION CONSISTENT
WITH THAT RESOLUTION SO THAT THE PEOPLE OF NAMIBIA CAN
DECIDE FREELY HOW THEY WISH TO GOVERN THEMSELVES. THE
CONTACT GROUP ALSO INFORMED THE SOUTH AFRICAN GOVERNMENT
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THAT, AS A RESULT OF TALKS WITH OTHERS, THE CONTACT GROUP
BELIEVED THAT THERE WAS A POSSIBILITY OF ENLISTING BROAD
SUPPORT FOR A SETTLEMENT ALONG THE LINES OF BRIEFING GIVEN
AFTER THE PREVIOUS ROUND OF TALKS.

2. THE SECOND ROUND RESULTED IN FURTHER CLARIFICATION OF
THE ELEMENTS OF WHAT MIGHT BECOME AN INTERNATIONALLY ACCEPTABLE
SOLUTION.

3. NATURE OF TRANSITIONAL ADMINISTRATIVE ARRANGEMENTS:

THE CONTACT GROUP WAS INFORMED INITIALLY THAT THE SOUTH AFRICAN GOVERNMENT HAD IN MIND ESTABLISHING A CENTRAL ADMINISTRATIVE ARRANGEMENT CONSISTING OF 17 MEMBERS, WHICH WOULD HAVE EXECUTIVE AS WELL AS LEGISLATIVE POWERS. ELEVEN OF THOSE MEMBERS WOULD BE REPRESENTATIVES OF THE DIFFERENT ETHNIC GROUPS WHICH PARTICIPATED IN THE TURNHALLE CONFERENCE, WITH THE REMAINING MEMBERS CHOSEN ON A DIFFERENT BASIS. THE CONTACT GROUP STATED ITS VIEW THAT ANY TRANSITIONAL ARRANGEMENT SHOULD NOT PREJUDICE OR APPEAR TO PREJUDICE THE OUTCOME OF THE POLITICAL PROCESS AND THAT IT SHOULD NOT BE BASED PREDOMINANTLY ON ETHNIC CONSIDERATIONS. THE SOUTH AFRICAN GOVERNMENT'S PROPOSAL THEREFORE WOULD NOT BE ACCEPTABLE.

4. SUBSEQUENTLY, A NEW PROPOSAL WAS MADE THAT THERE SHOULD BE AN ADMINISTRATOR-GENERAL WHO WOULD CONSTITUTE THE AUTHORITY TO ADMINISTER THE TERRITORY DURING THE TRANSITIONAL PERIOD. THE ADMINISTRATOR-GENERAL AND HIS STAFF WOULD BE IMPARTIAL; THE ADMINISTRATOR-GENERAL WOULD NOT EMPLOY ANY POLITICAL GROUPING IN AN INSTITUTIONAL FASHION, WHETHER ADVISORY OR OTHERWISE.

5. THE LEGAL BASIS FOR THE ADMINISTRATOR-GENERAL AS THE TRANSITIONAL AUTHORITY WOULD BE AN ENABLING PROVISION ADOPTED BY THE SOUTH AFRICAN PARLIAMENT WHICH WOULD AUTHORIZE THE STATE PRESIDENT TO MAKE LAW BY PROCLAMATION AND TO REPEAL OR AMEND EXISTING LAW, INCLUDING IN PARTICULAR ALL DISCRIMIN-

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ATORY LEGISLATION. THE DRAFT LEGISLATION WAS PRESENTED TO THE SOUTH AFRICAN PARLIAMENT ON JUNE 10 AND IS EXPECTED TO BE ADOPTED DURING THE WEEK OF JUNE 13-17. THE CONTACT GROUP TOOK THE VIEW THAT THIS NEW PROPOSAL WOULD BE HELPFUL TO THE EXTENT THAT IT CONTRIBUTES TO THE AIM OF ACHIEVING AN INTERNATIONALLY ACCEPTABLE SOLUTION TO THE NAMIBIAN QUESTION.

6. UN INVOLVEMENT: UNDER THIS NEW PROPOSAL, THE ADMINISTRATOR-GENERAL WILL ACT IN CO-OPERATION WITH THE UN SPECIAL REPRESENTATIVE. THE UN SPECIAL REPRESENTATIVE WOULD, AT ALL STAGES, HAVE TO BE SATISFIED AS TO THE FAIRNESS OF THE POLITICAL PROCESS.

7. THE DETAILS OF THE UN ROLE WOULD HAVE TO BE WORKED OUT WITH THE UN SECRETARY-GENERAL, BUT THE CONTACT GROUP OUTLINED ITS PRELIMINARY VIEWS TO THE SOUTH AFRICAN GOVERNMENT ON THE FOLLOWING LINES:

A) THE UN PRESENCE SHOULD BEGIN AT THE EARLIEST POSSIBLE STAGE IN THE TRANSITIONAL PROCESS AND COULD INVOLVE A SUBSTANTIAL NUMBER OF PERSONS; THE NUMBER WOULD BE DETERMINED BY THE REQUIREMENTS OF THE TASK. THESE PERSONS WOULD BE RESPONSIBLE TO THE UN SECRETARY-GENERAL AND HIS SPECIAL REPRESENTATIVE IN NAMIBIA.

B) THE UN SPECIAL REPRESENTATIVE, ASSISTED BY HIS STAFF, WOULD HAVE THE RESPONSIBILITY OF SATISFYING HIMSELF AS TO THE FAIRNESS AND NON-DISCRIMINATORY NATURE OF THE LEGISLATION WHICH PROVIDES FOR THE ELECTORAL PROCESS; THE IMPARTIALITY OF THE ADMINISTRATION; AND THE CONDUCT OF THE ELECTORAL CAMPAIGN, THE REGISTRATION OF VOTERS AND THE POLLING. HE WOULD ALSO INSURE THAT THERE WAS NO INTIMIDATION FROM ANY QUARTER.

8. THE SOUTH AFRICAN GOVERNMENT SAID THAT THEY SAW NO OBJECTION TO AN APPROACH ALONG THESE LINES. THEY WERE READY TO ACCEPT APPROPRIATE ARRANGEMENTS FOR WHICH THERE WERE SUITABLE PRECEDENTS AND THAT THEY WOULD WELCOME THE PRESENCE
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OF THE UN SPECIAL REPRESENTATIVE IN NAMIBIA AS SOON AS POSSIBLE AFTER THE APPOINTMENT OF THE ADMINISTRATOR-GENERAL.

9. REPEAL OF DISCRIMINATORY AND RESTRICTIVE LAWS AND REGULATIONS: THE CONTACT GROUP WAS INFORMED BY THE SOUTH AFRICAN GOVERNMENT THAT THIS ISSUE SHOULD POSE NO PROBLEM BECAUSE (A) THEIR NEW LEGISLATION WILL AUTHORIZE THE STATE PRESIDENT TO MAKE ANY CHANGES IN THE LAWS THAT ARE NECESSARY; (B) THE PEOPLE OF NAMIBIA WANT TO REPEAL DISCRIMINATORY LEGISLATION; AND (C) THIS WOULD BE ONE OF THE FUNCTIONS OF THE ADMINISTRATOR-GENERAL AND IT WOULD BE INCONCEIVABLE THAT THE STATE PRESIDENT WOULD NOT RESPOND TO HIS PROPOSALS IN THIS REGARD. THE UN SPECIAL REPRESENTATIVE WILL HAVE TO BE SATISFIED THAT ALL DISCRIMINATORY AND RESTRICTIVE LAWS AND REGULATIONS HAVE BEEN REMOVED.

10. DETAINEES AND POLITICAL PRISONERS:
THE CONTACT GROUP RESTATED ITS VIEW THAT ALL NAMIBIANS WHEREEVER HELD AS DETAINEES AND POLITICAL PRISONERS SHOULD BE RELEASED SO THAT THEY CAN PARTICIPATE IN THE POLITICAL PROCESS. THE CONTACT GROUP MADE IT CLEAR THAT, IN RELATION TO "POLITICAL PRISONERS," IT DID NOT RECOGNIZE THE DISTINCTION MADE BY THE SOUTH AFRICAN GOVERNMENT BETWEEN DETAINEES AND THOSE WHO HAD BEEN CONVICTED OF AN OFFENSE BY A COURT. THE CONTACT GROUP COULD NOT ACCEPT THAT SIMPLY BECAUSE A PRISONER HAD BEEN CONVICTED FOR CRIMES UNDER EXISTING LAW--SOME OF WHICH MIGHT IN ANY CASE HAVE TO BE CHANGED IN NAMIBIA BEFORE THE ELECTIONS--HE WAS NECESSARILY INELIGIBLE FOR CLASSIFICATION AS A POLITICAL PRISONER. IT WAS AGREED THAT DISPUTES AS TO WHO IS A POLITICAL PRISONER WOULD BE DECIDED IN THE FINAL INSTANCE BY A PANEL OF JURISTS. THIS PANEL (PREVIOUSLY CALLED A COMMISSION) OF JURISTS WILL CONSIST OF 4 MEMBERS APPOINTED BY THE SECRETARY-GENERAL, HALF OF WHOM WOULD BE SOUTH AFRICANS. THE PRESIDENT, DESIGNATED BY THE SECRETARY-GENERAL, WOULD HAVE A CASTING VOTE. (THE PANEL MIGHT ALSO HAVE FUNCTIONS IN RELATION TO DISPUTES WHICH MIGHT ARISE IN THE ELECTORAL PROCESS.)
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11. THE CONTACT GROUP ALSO RAISED THE QUESTION OF RELEASES IMMEDIATELY, I.E., BEFORE THE PANEL OF JURISTS IS ESTABLISHED. THE SOUTH AFRICAN GOVERNMENT STATED THAT IT WOULD RELEASE NAMIBIAN DETAINEES, PROVIDED NAMIBIANS DETAINED IN OTHER COUNTRIES WERE ALSO RELEASED. HOWEVER, THE CONTACT GROUP COULD NOT ACCEPT THAT THE RELEASE OF SUCH PERSONS IN ONE COUNTRY SHOULD BE CONTINGENT ON THE RELEASE OF PERSONS HELD ELSEWHERE.

12. TRANSFER OF POWER AND WITHDRAWAL OF ELEMENTS OF AUTHORITY: THE CONTACT GROUP ASKED THE SOUTH AFRICAN GOVERNMENT TO DRAW UP PLANS FOR A PHASED TRANSFER OF POWER/WITHDRAWAL WHICH SHOULD TAKE PLACE PROGRESSIVELY THROUGHOUT THE TRANSITIONAL PERIOD. THIS SHOULD TAKE INTO ACCOUNT THE MAINTENANCE OF PUBLIC SERVICES. TO FACILITATE INTERNATIONAL ACCEPTANCE, TWO STEPS ARE ESSENTIAL: THE UN SPECIAL REPRESENTATIVE MUST BE KEPT CLOSELY INFORMED IN ALL PHASES OF THE PLAN, AND THE WITHDRAWAL MUST BE COMPLETED BY INDEPENDENCE, SUBJECT TO WHATEVER ARRANGEMENTS THE NEW NAMIBIAN GOVERNMENT MAY HAVE MADE FOR THE FUTURE.

13. THE SOUTH AFRICAN GOVERNMENT EMPHASIZED THE NEED FOR RAPID PROGRESS. THEY EXPECTED TO APPOINT THE ADMINISTRATOR-GENERAL DURING AUGUST. THEY STATED THAT ELECTIONS FOR THE CONSTITUTIONAL ASSEMBLY SHOULD, IF POSSIBLE, BE HELD BY 31 DECEMBER 1977. THE CONTACT GROUP, FOR ITS PART, NOTED THE COMPLEXITY OF THE ISSUES, THE NEED FOR CONSULTATION WITH OTHER PARTIES, IN PARTICULAR THE UN SECRETARY-GENERAL, AND THE NECESSITY OF MAKING ADEQUATE PREPARATION; THIS IN THE CONTACT GROUP'S VIEW WOULD REQUIRE MORE TIME THAN THAT CONTEMPLATED BY THE SOUTH AFRICAN GOVERNMENT FOR ELECTIONS.

14. MATTERS PREVIOUSLY AGREED:
THE FOLLOWING ISSUES AGREED DURING THE FIRST ROUND OF TALKS IN APRIL WERE NOT RAISED DURING THESE DISCUSSIONS:
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A) ELECTIONS: THERE WOULD BE ELECTIONS, ON THE BASIS OF UNIVERSAL SUFFRAGE, FOR A CONSTITUENT ASSEMBLY WHOSE TASK IT WOULD BE TO DECIDE UPON THE CONSTITUTION FOR AN INDEPENDENT NAMIBIA. VOTING WOULD BE BY SECRET BALLOT WITH PROVISION TO ENABLE FULL PARTICIPATION BY INDIVIDUALS WHO CANNOT READ OR WRITE. ALL PERSONS AND ALL POLITICAL PARTIES, REGARDLESS OF POLITICAL VIEWS, WOULD BE FREE TO PARTICIPATE PEACEFULLY IN THE PROCESS OF POLITICAL CAMPAIGNING AND THE ELECTIONS. THERE WOULD BE FREEDOMS OF SPEECH, PRESS AND ASSEMBLY.

B) RETURNEES: ALL PERSONS BORN IN OR RECOGNIZED AS INHABITANTS OF NAMIBIA WHO ARE NOT NOW IN NAMIBIA WILL BE FREE TO RETURN AND PARTICIPATE PEACEFULLY IN THE POLITICAL PROCESS.

15. VENUE AND TIMING OF FURTHER TALKS:

THE CONTACT GROUP STATED THAT IT NOW WOULD BE NECESSARY TO HAVE EXTENSIVE DISCUSSIONS WITH OTHER PARTIES CONCERNED. THESE WOULD TAKE PLACE AS SOON AS POSSIBLE. THE CONTACT GROUP WOULD BE IN TOUCH WITH THE SOUTH AFRICAN GOVERNMENT ABOUT FURTHER TALKS WITH THEM AS SOON AS POSSIBLE, BEARING IN MIND THE DESIRE OF ALL CONCERNED TO REACH THE EARLIEST ACCEPTABLE SOLUTION OF THE NAMIBIA QUESTION.

SUPPLEMENTARY POINTS (QUESTIONS AND ANSWERS)

16. IF ASKED ABOUT THE ESTABLISHMENT OF REGIONAL GOVERNMENTS FOR THE DAMARAS, HEREROS, TSWANAS AND NAMAS:

THE SOUTH AFRICAN GOVERNMENT STATED THEIR INTENTION TO ESTABLISH SUCH GOVERNMENTS. THE CONTACT GROUP STATED THAT THIS WAS NOT A MATTER WHICH THEY WOULD WISH TO DISCUSS; LOCAL GOVERNMENT WOULD ULTIMATELY HAVE TO BE DECIDED BY THE NAMIBIANS THEMSELVES IN DETERMINING THEIR CONSTITUTION.

17. IF ASKED WHETHER THE SOUTH AFRICAN GOVERNMENT HAVE ACCEPTED UN "SUPERVISION AND CONTROL":

THE ILLUSTRATIVE ARRANGEMENTS MENTIONED ABOVE, WHICH THE CONFIDENTIAL

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SOUTH AFRICAN GOVERNMENT HAVE ACCEPTED IN PRINCIPLE, WOULD WHEN IMPLEMENTED AMOUNT TO STRICT UN SUPERVISION AND CONTROL. IT IS THE SUBSTANCE RATHER THAN THE NAME THAT METTERS.

18. IF ASKED ABOUT A ROLE FOR THE COUNCIL OF NAMIBIA AND THE COMMISSIONER FOR NAMIBIA:

THIS WAS NOT DISCUSSED. MEMBERS OF THE CONTACT GROUP INTEND ON THEIR RETURN TO NEW YORK TO BE IN TOUCH WITH THE PRESIDENT OF THE COUNCIL FOR NAMIBIA AND THE COMMISSIONER FOR NAMIBIA.

19. IF ASKED ABOUT THE TRANSFER OF NAMIBIAN PRISONERS TO JAILS IN NAMIBIA:

THE CONTACT GROUP ASKED THE SOUTH AFRICAN GOVERNMENT TO MOVE NAMIBIANS DETAINED AND IMPRISONED IN SOUTH AFRICA TO PENAL INSTITUTIONS IN NAMIBIA. THE SOUTH AFRICAN GOVERNMENT RAISED NO OBJECTION TO THIS BUT STATED THAT IT WAS NOT PRACTICAL UNTIL THE COMPLETION OF ADEQUATE FACILITIES IN NAMIBIA. THE CONTACT GROUP STRESSED THE NEED FOR SUCH FACILITIES AS SOON AS POSSIBLE.

20. IF ASKED ABOUT THE WITHDRAWAL OF SOUTH AFRICAN ARMED FORCES BEFORE THE ELECTIONS:

THE IMPORTANT THING IS TO ENSURE THAT THERE IS NO IMPROPER INTERVENTION BY THE ARMED FORCES IN THE ELECTORAL PROCESS. THE SOUTH AFRICAN GOVERNMENT ACCEPTED THAT THERE MUST BE NO INTIMIDATION FROM WHATEVER QUARTER. THE CONTACT GROUP STRESSED THAT ARRANGEMENTS WOULD HAVE TO BE MADE FOR THE UN SPECIAL REPRESENTATIVE TO SATISFY HIMSELF THAT THERE WAS NO INTIMIDATION BY THE ARMED FORCES AND THAT SUCH FORCES AS WERE IN NAMIBIA DURING THE

ELECTORAL PROCESS DID NOT IN ANY WAY INTERFERE.

21. IF ASKED ABOUT THE WITHDRAWAL OF SOUTH AFRICAN POLICE BEFORE THE ELECTIONS:

THE IMPORTANT THING IS TO ENSURE THAT THERE IS NO IMPROPER INTERVENTION BY THE POLICE IN THE ELECTORAL PROCESS. THE SOUTH AFRICAN GOVERNMENT ACCEPTED THAT THE ADMINISTRATION MUST BE IMPARTIAL AND THAT THERE MUST BE NO INTIMIDATION
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FROM WHATEVER QUARTER. THE CONTACT GROUP STRESSED THAT ARRANGEMENTS WOULD HAVE TO BE MADE FOR THE UN SPECIAL REPRESENTATIVE TO SATISFY HIMSELF THAT THERE WAS NO INTIMIDATION BY THE POLICE AND THAT THE POLICE DID NOT INTERFERE IN THE ELECTORAL PROCESS.

22. IF ASKED ABOUT THE POSSIBILITY OF UN PEACE-KEEPING OR POLICE FORCES: THESE MATTERS WERE NOT RAISED.

23. IF ASKED ABOUT WALVIS BAY:

THE CONTACT GROUP STATED THAT THIS WOULD CERTAINLY BE A MATTER OF CONTROVERSY. THE SOUTH AFRICAN GOVERNMENT RESTATED THEIR WELL-KNOWN POSITION THAT WALVIS BAY HAS BEEN AN INTERNATIONALLY RECOGNIZED PART OF THE UNION (LATER THE REPUBLIC) OF SOUTH AFRICA SINCE 1910, I.E., WELL BEFORE THE LEAGUE OF NATIONS MANDATE. THEY SAID THAT THEY INTENDED TO RESTORE THE ADMINISTRATIVE STATUS QUO AS IT EXISTED PRIOR TO 1922.

24. IF ASKED ABOUT SOUTH AFRICAN INVESTMENTS AND FINANCIAL COMMITMENTS IN THE TERRITORY:

THE SOUTH AFRICAN GOVERNMENT REFERRED TO THESE MATTERS. THE CONTACT GROUP SAID THAT IF THESE ISSUES WERE TO BE RAISED, THEY SHOULD BE SET OUT BY THE SOUTH AFRICAN GOVERNMENT IN DRAWING UP THEIR PLAN FOR A PHASED WITHDRAWAL. WITH REGARD TO THE MAINTENANCE OF PUBLIC SERVICES, THE CONTACT GROUP EXPRESSED THE HOPE THAT THE SOUTH AFRICAN GOVERNMENT WOULD CONTINUE TO LEND THEIR COOPERATION.

25. IF ASKED FOR A PIECE OF PAPER AS RECORD OF THE ORAL BRIEFING:

IT IS NOT POSSIBLE TO HAND OVER A PAPER NOW, PARTICULARLY SINCE THE MATTERS INVOLVING THE UN HAVE NOT YET BEEN EXAMINED WITH THE SECRETARY-GENERAL AND OTHERS. HOWEVER, A PAPER MAY BE AVAILABLE.

UNQUOTE

26. FOR INFO ADDRESSEES: YOU SHOULD NOTE THAT THE TALKING
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POINTS ARE SUBJECT TO DEPARTMENT APPROVAL.

27. FOR DEPARTMENT: IF CHANGES IN TALKING POINTS DESIRED,
PLEASE INFORM ALL INFO ADDRESSEES.BOWDWER UNQUOTE VANCE

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